

§§ 1956.103–1956.104

§§ 1956.103–1956.104 [Reserved]

§ 1956.105 Definitions.

(a) *Settlement*. The compromise, adjustment, cancellation, or chargeoff of a debt owed to FmHA or its successor agency under Public Law 103-354. The term “settlement” is used for convenience in referring to compromise, adjustment, cancellation, or chargeoff actions, individually or collectively.

(b) *Compromise*. The satisfaction of a debt, including a release of liability, by the acceptance of a lump-sum payment of less than the total amount owed on the debt.

(c) *Adjustment*. The satisfaction of a debt, including a release of liability, when acceptance is conditioned upon completion of payment of the adjusted amount at a specific future time or times, with or without the payment of any consideration when the adjustment offer is approved. An adjustment is not a final settlement until all payments under the adjustment agreement have been made.

(d) *Cancellation*. The final discharge of a debt with a release of liability.

(e) *Chargeoff*. To write off a debt and terminate all servicing activity *without* a release of liability. This is not a final discharge of the debt, but rather a decision upon the part of the agency to remove the debt from agency receivables.

(f) *Debtor*. The borrower of loan funds under any of the FmHA or its successor agency under Public Law 103-354 programs specified in §1956.101 of this subpart.

(g) *Security*. All that serves as collateral for the FmHA or its successor agency under Public Law 103-354 loan(s), including, but not limited to, revenues, tax levies, municipal bonds, and real and chattel property.

(h) *Servicing official*. The FmHA or its successor agency under Public Law 103-354 official who is primarily responsible for servicing the account.

(i) *United States Attorney*. An attorney for the United States Department of Justice.

(j) *Independent Qualified Fee Appraiser*. An individual who is a designated member of the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, or an equiv-

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alent organization, requiring appraisal education, testing, and experience.

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§§ 1956.106–1956.108 [Reserved]

§ 1956.109 General requirements for debt settlement.

(a) *Debt due and payable*. The debt or any extension thereof on which settlement is requested must be due and payable under the terms of the note or other instrument, or because of acceleration by written notice prior to the date of application for settlement, unless the debt is to be cancelled without application under §1956.130(b) or charged off under §1956.136 of this subpart.

(b) *Disposition of security*. Ordinarily, all security will be disposed of prior to the date of application for settlement. There are exceptions:

(1) It may be necessary to abandon security through the debt settlement process. For example, a community may be rendered uninhabitable by a toxic or hazardous substance. In such cases, debt settlement may proceed provided the servicing official determines:

(i) That further collection efforts with respect to the security in question would be ineffective or uneconomical,

(ii) That it is in the best interests of the Government to proceed with debt settlement,

(iii) That the proposal otherwise meets the requirements appropriate to the type of settlement under consideration, and

(iv) The approval of the Administrator is obtained.

(2) A servicing action may have been carried out which resulted in a less than complete disposition of security. For example, the Government may have consented to a voluntary sale of a debtor's real and chattel property without reference to other security, which might include, but is not limited to: an additional lien on revenue, a third party pledge of security, or a pledge of personal liability. In such cases, debt settlement may proceed provided the requirements of §1956.109(b)(1) of this subpart are met.